

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAY HARDWOOD OLD CHIEF,

Defendant.

CR 14-02-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on November 16, 2017. Defendant admitted that he had violated the conditions of his supervised release by failing to report for substance abuse testing, and by failing to report for substance abuse treatment. Judge Johnston found the admissions sufficient to establish the alleged supervised release violations. Judge Johnston recommended that this Court revoke Defendant's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of imprisonment of eight months, with 20 months of supervised release to follow.

Defendant filed a timely objection. (Doc. 113). Defendant objects to the eight month term of custody recommended by Judge Johnston.

Defendant requests a six month term of custody. Defendant states that “he has his addiction issues under control” and that “he has more problems following authority than in abusing methamphetamine.” (Doc. 113 at 3).

The Court reviews *de novo* findings and recommendations to which a defendant objects. 28 U.S.C. § 636(b)(1). Findings and recommendations to which no objection is made are reviewed for clear error. *McDonnell Douglas Corp. Commodore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston’s findings and recommendations. Defendant admitted that he had violated the conditions of his supervised release. Defendant could be incarcerated for up to 24 months, followed by 28 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of three to nine months. A sentence of eight months in custody, followed by 20 months of supervised release is appropriate. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston’s Findings and Recommendations

(Doc. 112) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 6th day of December, 2017.



Brian Morris
United States District Court Judge